

# PATENT COOPERATION TREATY

# PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference	<b>FOR FURTHER ACTION</b>		See item 4 below
International application No. PCT/US2005/005964	International filing date ( <i>day/month/year</i> ) 25 February 2005 (25.02.2005)	Priority date ( <i>day/month/year</i> ) 27 February 2004 (27.02.2004)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant TAGAWA GREENHOUSES, INC.			

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).
2. This REPORT consists of a total of 5 sheets, including this cover sheet.  
  
In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Box No. I  | Basis of the report   |
| <input checked="" type="checkbox"/> Box No. II | Priority  |
| <input type="checkbox"/> Box No. III           | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability  |
| <input type="checkbox"/> Box No. IV            | Lack of unity of invention  |
| <input checked="" type="checkbox"/> Box No. V  | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> Box No. VI            | Certain documents cited   |
| <input type="checkbox"/> Box No. VII           | Certain defects in the international application  |
| <input type="checkbox"/> Box No. VIII          | Certain observations on the international application   |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

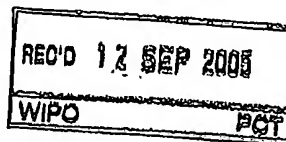
	Date of issuance of this report 30 August 2006 (30.08.2006)
The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland  Facsimile No. +41 22 338 82 70	Authorized officer  Dorothee Mülhausen  e-mail: pt01@wipo.int

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

To:  
NICOLE A. RESSUE  
SANTANGELO LAW OFFICES, P.C.  
125 SOUTH HOWES, THIRD FLOOR  
FORT COLLINS, CO 80521

PCT



## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Applicant's or agent's file reference		Date of mailing (day/month/year) <b>09 SEP 2005</b>	
		<b>FOR FURTHER ACTION</b> See paragraph 2 below	
International application No. <b>PCT/US05/05964</b>	International filing date (day/month/year) <b>25 February 2005 (25.02.2005)</b>	Priority date (day/month/year) <b>27 February 2004 (27.02.2004)</b>	
International Patent Classification (IPC) or both national classification and IPC <b>IPC(7): C12M 3/00; C12N 5/00, 5/02, 5/04 and US Cl.: 435/288.5, 325, 431</b>			
Applicant <b>TAGAWA GREENHOUSES, INC.</b>			

**1. This opinion contains indications relating to the following items:**

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

**2. FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

**3. For further details, see notes to Form PCT/ISA/220.**

Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer <i>M. K. Srivastava</i> Dr. Kailash C. Srivastava Telephone No. (703)-308-0196
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Form PCT/ISA/237 (cover sheet) (January 2004)

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/US05/05964

**Box No. I Basis of this opinion**

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This opinion has been established on the basis of a translation from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐ a sequence listing

☐ table(s) related to the sequence listing

b. format of material

☐ in written format

☐ in computer readable form

c. time of filing/furnishing

☐ contained in international application as filed.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/US05/05964

**Box No. II Priority**

1. ☒ The following document has not yet been furnished:
- ☐ copy of the earlier application whose priority has been claimed (Rules 43*bis*.1 and 66.7(a)).
  - ☐ translation of the earlier application whose priority has been claimed (Rules 43*bis*.1 and 66.7(b)).
- Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.
2. ☐ This opinion has been established as if no priority has been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:  
This International Examining Authority acknowledges applicant's claim for priority to Provisional U.S. Application Serial Number 60/548,847 filed 27 February 2004.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.  
PCT/US05/05964

**Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Claims 1-167	YES
	Claims NONE	NO
Inventive step (IS)	Claims 1-167	YES
	Claims NONE	NO
Industrial applicability (IA)	Claims 1-167	YES
	Claims NONE	NO

2. Citations and explanations:

Claims 1-167 meet the criteria set out in PCT Articles 33 (2)-(4), because the cited prior art references do not specifically teach a method to culture explanted tissue/cell in a porous material having voids/pockets providing free-field proliferation of said explant via placing the explant in a pocket of the porous material and providing to the explant a first nutrient medium with balanced air, followed by explant growth and adding a second nutrient medium according to all of the steps and components/compositions as claimed instantly. The cited prior art also does not provide a porous device having the same/similar composition and prepared according to the steps claimed instantly. Therefore, the cited prior art references only refer in general terms the subject matter of the claimed invention.

Thus, the cited references do not teach or reasonably suggest a method to obtain the claimed invention. Therefore, the Claimed invention is neither anticipated nor lacks an inventive step over the cited prior art. It has, thus, an industrial applicability because the subject matter claimed can be made or used in industry.